

## Message Text

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ORIGIN OES-06

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TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY

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INFORM CONSULS, FOR LOS DEL USUN

E.O. 11652: N/A

TAGS: EFIS, PLOS, XX

SUBJECT:IMPACT OF 200-MILE LEGISLATION ON EXISTING  
FISHERIES ARRANGEMENTS

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REF: A. STATE 090067 B. STATE 89395 C. BERLIN 5692

D. BUCHAREST 1912

1. SOME OF THE EFFECTS WHICH U.S. LEGISLATION ON 200-

MILE CONSERVATION AND MANAGEMENT ZONE WILL HAVE WITH COUNTRIES WITH WHICH U.S. HAS FISHERIES RELATIONSHIPS ARE DESCRIBED BELOW. ADDRESSEE POSTS MAY USE POINTS COVERED, AS APPROPRIATE, IN RESPONDING TO QUESTIONS RAISED BY HOST GOVERNMENTS. AS STATED PARA 4 REFTTEL A, WE HOPE TO HAVE POLICY GUIDANCE BY EARLY MAY.

2. THE ACT DOES NOT INTEND THAT EXISTING AGREEMENTS IN FORCE ON MARCH 1, 1977 BE TERMINATED, BUT RATHER THEY BE PROMPTLY RENEGOTIATED TO MAKE THEM COMPATIBLE WITH THE ACT. IN GENERAL, THE TREATIES AND AGREEMENTS NOW IN FORCE ARE NOT CONSISTENT WITH THE PURPOSES, POLICY OR PROVISIONS OF THE ACT, IN PARTICULAR IN THAT THEY DO NOT QUOTE ACKNOWLEDGE THE EXCLUSIVE MANAGEMENT AUTHORITY OF THE UNITED STATES UNQUOTE EITHER IN PRINCIPLE OR IN SPECIFIC FISHERY TERMS. ALTHOUGH SIGNIFICANT REDUCTIONS HAVE BEEN MADE IN THE CATCHES OF THE FOREIGN FLEETS IN RECENT YEARS, OVERFISHING STILL IS A MAJOR PROBLEM AND NONE OF THE EXISTING AGREEMENTS HAS TOTALLY SUCCEEDED IN ADDRESSING IT. THUS, IN ANY FUTURE NEGOTIATION, THE UNITED STATES WILL BE REQUIRED TO GAIN ACKNOWLEDGMENT OF OUR FISHERIES JURISDICTION AS SET FORTH IN THE ACT AND SHARPLY REDUCE FOREIGN FISHING TO ENSURE THAT ONLY THAT PORTION OF THE OPTIMUM SUSTAINABLE YIELD NOT UTILIZED BY U.S. FISHERMEN IS TAKEN BY FOREIGN FISHERMEN.

3. THE ACT PROHIBITS ALL FOREIGN FISHING IN THE MANAGEMENT ZONE AFTER MARCH 1, 1977 UNLESS THE FOREIGN NATION HAS ON BOARD A VALID PERMIT ISSUED UNDER AN AGREEMENT WITH THE UNITED STATES. IT FURTHER REQUIRES THAT FOREIGN NATIONS MUST COMPLY WITH CERTAIN CONDITIONS, INCLUDING, FOR EXAMPLE, A RECOGNITION OF THE RIGHT OF U.S. ENFORCEMENT OFFICERS TO FREELY BOARD, INSPECT AND SEIZE THEIR VESSELS FOR VIOLATIONS.

4. FYI. SOME COUNTRIES MAY DECIDE NOT TO RECOGNIZE THE LIMITED OFFICIAL USE  
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U.S. CLAIM TO 200 MILES FISHERIES JURISDICTION AT THIS TIME. OTHERS MAY NOT AGREE TO THE COMPLIANCE WITH ALL OF THE CONDITIONS STIPULATED IN THE ACT. AMONG OTHER THINGS, THEY MAY CLAIM THE BOARDING, INSPECTION, SEIZURE, AND PENALTY CONDITIONS CONSTITUTE A VIOLATION OF INTERNATIONAL LAW. END FYI.

5. IN DETERMINING THE ALLOCATION AMONG FOREIGN NATIONS OF THE ALLOWABLE CATCH, THE SECRETARY OF STATE, IN COOPERATION WITH THE SECRETARY OF COMMERCE, IS REQUIRED TO CONSIDER WHETHER SUCH NATION HAS HAD A TRADITIONAL FISHERY, HAS COOPERATED IN SCIENTIFIC RESEARCH, EN-

FORCEMENT AND CONSERVATION, AND OTHER MATTERS DEEMED APPROPRIATE. (SEE PARA 3B REFTTEL A.)

6. TRADITIONAL FOREIGN FISHING IS INTERPRETED IN THE REPORT OF THE CONFEREES TO MEAN LONG-STANDING, ACTIVE, AND CONTINUOUS FISHING FOR A PARTICULAR STOCK OF FISH BY CITIZENS OF A PARTICULAR FOREIGN NATION. WHETHER ANY NATION WHOSE CITIZENS FISH WITHIN THE FISHERY CONSERVATION ZONE FOR ANY OF THE SPECIES DESCRIBED IN THE ACT POSSESSES TRADITIONAL FISHING RIGHTS MUST BE DETERMINED ON A CASE-BY-CASE BASIS. THERE ARE MANY NATIONS WHICH HAVE RECENTLY BEGUN TO FISH OFF THE U.S. COAST. SUCH NATIONS WOULD CLEARLY LACK SUCH RIGHTS. HOWEVER, NATIONS WHOSE FISHERMEN HAVE CONTINUALLY FISHED ON A PARTICULAR STOCK FOR A SIGNIFICANT NUMBER OF YEARS, AND DONE SO IN COMPLIANCE WITH ANY APPLICABLE AGREEMENTS OR DOMESTIC LAW, WOULD HAVE A GOOD CASE FOR

TRADITIONAL FISHING PREFERENCES WITHIN THE ALLOWABLE LEVEL OF FOREIGN FISHING.

7. SIMILARLY, PREVIOUS COOPERATIVE EFFORTS IN SCIENTIFIC RESEARCH, CONSERVATION AND ENFORCEMENT ON THE PART OF A FOREIGN NATION MUST ALSO BE ADDRESSED ON A CASE-BY-CASE BASIS. THOSE NATIONS WHICH HAVE CLEARLY DEMONSTRATED RESPONSIBLE ACTIONS WOULD BE GIVEN PREFERENCE IN ALLOCATIONS AMONG FOREIGN FISHERMEN OVER NATIONS WHO HAVE DEMONSTRATED A LACK OF SUCH CONCERN. MANY NATIONS DO NOT FULLY MEET THESE CRITERIA.

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8. AT THE PRESENT TIME, THERE ARE ABOUT 20 NATIONS FISHING OFF THE UNITED STATES. DURING THE PEAK OF THE FISHING SEASON, THERE ARE OVER 1,000 FOREIGN FISHING AND PROCESSING VESSELS, TRANSPORT AND SUPPLY VESSELS ENGAGED IN THE FISHERIES IN THE 200-MILE MANAGEMENT ZONE. THE COMPOSITION OF THIS FLEET CHANGES FREQUENTLY THROUGHOUT THE YEAR AND THERE MAY BE AS MANY AS 1,500-2,000 INDIVIDUAL FOREIGN VESSELS ENGAGED IN THE FISHERIES DURING THE ENTIRE YEAR. ALL OF THESE VESSELS WILL BE REQUIRED TO HAVE PERMITS IF THEY ARE TO CONTINUE FISHING. WE MAY ALSO WISH TO PLACE LIMITS ON THE NUMBER OF PERMITS ISSUED AS A CONTROL MEASURE TO PREVENT OVERFISHING.

9. THE ADMINISTRATION OF THE ACT RELATING TO THE ISSUANCE OF FISHING PERMITS, EITHER THOSE ISSUED BY THE SECRETARY OF COMMERCE OR REGISTRATION PERMITS ISSUED BY THE SECRETARY OF STATE IS EXPECTED TO BE BUREAUCRATIC AND TIME CONSUMING. THE MECHANICS INVOLVED IN THE APPLICATION AND ISSUANCE OF PERMITS MAY TAKE FOUR TO

SIX MONTHS IN THE CASE OF PERMITS ISSUED BY THE SECRETARY OF COMMERCE. THE ACT ALSO PROVIDES FOR A 60-DAY LEGISLATIVE OVERSIGHT WITH THE RIGHT TO DISAPPROVE ANY AGREEMENT, BY THE CONGRESS. THE 60-DAY CONGRESSIONAL REVIEW AND THE 45-DAY PROCEDURE FOR PERMITS (SEE PARA 3E REFTEL A) MEANS THAT ALL AGREEMENTS WILL HAVE TO BE RENEGOTIATED BY AUGUST 1-15. THIS CLEARLY IS NOT POSSIBLE AND IS A PROBLEM WE ARE ATTEMPTING TO RESOLVE.

10. FOR OTTAWA: THE RECIPROCAL AGREEMENT IS BEING EXTENDED TO APRIL 1977 SO AS TO BUY TIME FOR U.S. TO RENEGOTIATE TERMS WHICH WILL COVER BILATERAL FISHERIES INTERESTS WHEN BOTH NATIONS HAVE EXTENDED JURISDICTIONS. FIRST STEP IN NEGOTIATIONS WITH CANADA HAVE BEEN SCHEDULED MAY 10-12, VANCOUVER. SALMON IS BEING TREATED AS SEPARATE AREA OF MUTUAL CONCERN AND SEVERAL MONTHS OF BILATERAL CONSULTATIONS HAVE RESULTED IN AGREEMENT TO BEGIN FORMAL NEGOTIATIONS MAY 17-21 IN VANCOUVER FOR BROAD

SALMON TREATY WHICH WOULD INCORPORATE FRASER RIVER  
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SALMON CONVENTION.

11. FOR TOKYO: ACT WILL HAVE LARGEST IMPACT ON FUTURE OF JAPANESE FISHERY DUE TO SHEER MAGNITUDE OF FISHERY. IMPLEMENTATION OF ACT IN CONSERVATION ZONE IN WESTERN ALEUTIANS PRESENTS UNIQUE PROBLEMS SINCE JAPAN CONDUCTS A LARGE SALMON FISHERY OPERATION IN ZONE FOR ASIAN SALMON UNDER PROVISIONS OF JAPAN-USSR TREATY BUT FISHERY ALSO CAPTURES U.S. SALMON AND WOULD THUS BE SUBJECT TO U.S. REGULATION. DEPARTMENT RECOGNIZES IMPORTANCE OF MAINTAINING CLOSE DIALOGUE WITH JAPAN. WITH A VIEW TO RENEGOTIATIONS LATER THIS YEAR OF BILATERALS WHICH EXPIRE DECEMBER 31, AND TO INCREASE SUCCESS OF NEGOTIATIONS, DEPARTMENT HAS UNDER CONSIDERATION HOLDING INFORMAL CONSULTATIONS PRIOR TO FORMAL TALKS. EMBASSY'S VIEWS REQUESTED.

12. FOR MEXICO, LIMA, QUITO, SAN JOSE, PANAMA, TOKYO, PARIS, BOGOTA, OTTAWA, MANAGUA, SANTIAGO: THE ACT DOES NOT EXTEND U.S. MANAGEMENT AUTHORITY OVER THE HIGHLY MIGRATORY SPECIES SO WILL NOT AFFECT THE INTER-AMERICAN TROPICAL TUNA COMMISSION (IATTC) AND THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT). THE ACT DOES NOT RESOLVE JURIDICAL DISPUTE OVER FISHERIES WHICH HAS RESULTED FROM CLAIMS OF JURISDICTION OVER TUNA BY OTHER COUNTRIES. ACT ENHANCES CONCEPT THAT TUNA SHOULD BE MANAGED BY APPROPRIATE INTERNATIONAL ORGANIZATIONS WITH MEMBERSHIP COMPOSED OF COUNTRIES OFF WHOSE COAST STOCKS OF TUNA APPEAR AS WELL AS COUNTRIES WHICH

FISH STOCKS EITHER WITHIN OR BEYOND 200 MILE ZONES. U.S. ANTICIPATES DISCUSSIONS ON NEW REGIONAL ARRANGEMENTS IN EASTERN PACIFIC BEFORE END OF YEAR.

13. FOR BRASILIA: THE ACT PROVIDES THAT THE SECRETARY OF STATE SHOULD CONDUCT NEGOTIATIONS WITH FOREIGN COUNTRIES ALLOWING U.S. FISHING VESSELS EQUITABLE ACCESS TO FISHERIES OFF THEIR COASTS. ACT WILL NOT AFFECT SHRIMP TREATY WITH BRAZIL, WHICH EXPIRES DECEMBER 31, 1976. PRIOR TO TERMINATION DATE, DEPARTMENT HOPES TO CONVENE DISCUSSION WITH BRAZIL ON FUTURE OF AGREEMENT WITH A VIEW TOWARDS ACHIEVING CONTINUATION OF SOME ARRANGEMENTS.  
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14. FOR OTTAWA, REYKJAVIK, OSLO, COPENHAGEN, LONDON, PARIS, BONN, BERLIN, WARSAW, MOSCOW, MADRID, SOFIA, BUCHAREST, ROME, TOKYO, LISBON: CONGRESS HAS DECLARED THAT THE U.S. SHOULD FILE ITS INTENT TO WITHDRAW FROM THE

18- MEMBER INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES SO THAT THE WITHDRAWAL FROM THIS TREATY WILL HAVE BECOME EFFECTIVE BY FEBRUARY 28, 1977 UNLESS THE CONVENTION IS SOONER RENEGOTIATED TO CONFORM TO THE NEW LAW. THE ICNAF COMMISSION HAS MADE SUBSTANTIAL PROGRESS IN CONTROLLING OVERFISHING BUT HAS NOT RESOLVED THIS PROBLEM. AS SUCH, IT DOES NOT MEET CONSERVATION REQUIREMENTS OF ACT AT THIS TIME. IN ADDITION, ICNAF DOES NOT MEET OTHER REQUIREMENTS OF LAW AND IT WILL NEED TO BE RESTRUCTURED IN A MANNER WHICH WILL MEET THE CRITERIA ESTABLISHED BY THE ACT.

ADMINISTRATIVE PROCEDURES OF COMMISSION ARE SUCH THAT U.S. HAD TO ACT BEFORE APRIL 8 TO PLACE ITEM ON RENEGOTIATION OF CONVENTION ON AGENDA FOR JUNE ANNUAL MEETING. WE HAVE DONE SO. HOWEVER, NO DECISION HAS YET BEEN MADE BY U.S. AS TO WHETHER WE WILL IN FACT DISCUSS RENEGOTIATION OR ANNOUNCE INTENT TO WITHDRAW. THIS WILL HAVE TO AWAIT COMPLETION OF STUDY OF POLICY OPTIONS AND DECISION AT POLICY LEVEL HERE.

15. FOR BERLIN: RECOGNIZING GDR'S INTEREST IN CONCLUDING FISHERIES AGREEMENT (REFTEL C), USG HAS UNDER CONSIDERATION (PENDING COMPLETION OF STUDY) POSSIBILITY OF CONCLUDING QUOTE GOVERNING INTERNATIONAL FISHERIES AGREEMENT (GIFA) UNQUOTE AS PROVIDED IN THE ACT. (SEE PARA 3D REFTEL A) IT SHOULD BE NOTED THAT SIGNING SUCH AN AGREEMENT WOULD NOT NECESSARILY GUARANTEE ANY ALLOCATION OF CATCH TO GDR SINCE THERE MAY WELL NOT BE ANY EXCESS ALLOWABLE CATCH, SUCH AS IN CASE OF PACIFIC COAST HAKE RESOURCE WHICH IS BEING OVER-

FISHED. ABOVE IS FOR EMBASSY'S INFORMATION ONLY.  
DEPARTMENT WILL PROVIDE DETAILED GUIDANCE FOR RESPONSE  
TO POINTS RAISED BY GRUENERT ASAP.  
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16. FOR WARSAW: US-POLISH MID-ATLANTIC AND NORTH  
PACIFIC FISHERY AGREEMENTS EXPIRE IN 1976 AND  
DISCUSSIONS WILL NEED TO BE HELD WITH POLAND REGARDING  
FUTURE ARRANGEMENTS. POLES ALREADY ADVISED THROUGH  
LOS DEL THAT MID-ATLANTIC AGREEMENT WHICH EXPIRES  
JUNE 30 CANNOT BE EXTENDED. U.S. HAS UNDER SIMILAR  
CONSIDERATION CONCLUDING GIFA WITH POLAND, SIMILAR TO  
THAT DESCRIBED IN PARA 15.

17. FOR MOSCOW: AT FEBRUARY 1976 NEGOTIATIONS IN  
WASHINGTON, US AND USSR AGREED TO MEET IN MOSCOW AT  
A CONVENIENT TIME TO DISCUSS QUESTIONS OF MUTUAL INTEREST

REGARDING PRINCIPLES THAT WILL APPLY UNDER QUOTE ANTI-  
CIPATED LEGAL AND JURISDICTIONAL CHANGES IN FISHERIES  
OFF U.S. COASTS UNQUOTE. WE HAVE PROPOSED TO SOVIET  
EMBASSY AS FIRST CHOICE FOR MEETING DATE WEEK OF  
2-6 AUGUST, SECOND CHOICE 26-30 JULY. WE HAVE NOT YET  
RECEIVED RESPONSE FROM SOVIET SIDE. POST IS RE-  
QUESTED TO APPROACH SOVIET FISHERIES OFFICIALS AND  
CONFIRM MEETING DATES ASAP.

18. FOR BUCHAREST: WE WILL RESPOND SEPARATELY TO  
QUESTIONS POSED IN REFTEL D.

19. FOR BRASILIA, ACCRA, SEOUL, RABAT, ABIDJAN,  
LISBON, PRETORIA, MADRID: PARA 12 ABOVE IS ALSO FOR  
YOUR ATTENTION. ROBINSON

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## Message Attributes

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